



DELTA STEWARDSHIP COUNCIL

A California State Agency

980 NINTH STREET, SUITE 1500
SACRAMENTO, CALIFORNIA 95814
WWW.DELTACOUNCIL.CA.GOV
(916) 445-5511

May 17, 2012

Campbell Ingram, Executive Officer
Sacramento-San Joaquin Delta Conservancy
3500 Industrial Blvd., 2nd Floor
West Sacramento, CA 95691

Chair
Phil Isenberg

Members
Randy Fiorini
Gloria Gray
Patrick Johnston
Hank Nordhoff
Don Nottoli
Felicia Marcus

Executive Officer
P. Joseph Grindstaff

Dear Mr. Ingram:

First, on behalf of the Delta Stewardship Council (Council) let me congratulate you, the Delta Conservancy Board and staff on completion of the draft strategic plan for the Sacramento-San Joaquin Delta Conservancy (Delta Conservancy). This is a substantial achievement for the Delta Conservancy and once finalized, lays the foundation for a successful future.

As you are aware, in 2009 the California Legislature created the Council to play a synthesizing and coordinating role among the many agencies and interest groups that have a stake in the Delta's future. The Council was also tasked with developing the Delta Plan. The Delta Plan, once adopted by the Council, will be an enforceable plan to achieve the coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. As you know, Public Resources Code Section 32376 requires the Delta Conservancy's strategic plan to be consistent with the Delta Plan.

With that in mind, we have reviewed the Delta Conservancy's draft strategic plan with an eye to its consistency with the final staff draft Delta Plan (which was released on May 14, 2012). Though the Delta Plan has not yet been adopted, were the current final staff draft Delta Plan in effect, our initial analysis is that the Delta Conservancy's draft strategic plan would be consistent with it. The Delta Conservancy can play a key role in implementing the Delta Plan through its programs and projects. The final staff draft Delta Plan, for example, proposes that the Delta Conservancy serve as a member of the Interagency Implementation Committee (which will be established by the Council after the Delta Plan is adopted; see Water Code Section 85204), and carry out recommendations of the Delta Plan specific to the Delta Conservancy's programs.

As you finalize the strategic plan, we encourage you to avoid duplicating efforts already undertaken by other government agencies and entities in the Delta. Instead, the Delta Conservancy should work together with these agencies, building upon work done by others and identifying gaps in others' functions or activities that the Delta Conservancy's programs

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

— CA Water Code §85054

Campbell Ingram, Executive Officer
Sacramento-San Joaquin Delta Conservancy
May 17, 2012
Page 2 of 8

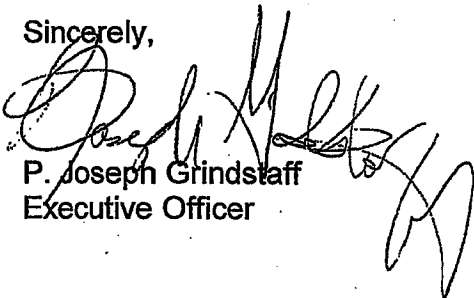
could address. Specific examples of these activities are provided in the attached comments and recommendations.

During this formative period in the Delta Conservancy's development, it will be vital for the Delta Conservancy to serve as a facilitator for actions to protect and restore the Delta's ecosystem or enhance economic development in the region. Such a focus in the next few years could build internal capacity, expertise and resources that would prepare the Delta Conservancy to assume leadership roles, such as those described in the plan's Goals 2, 3, and 4.

As we reach completion and adoption of the Delta Plan and begin our efforts to implement the Plan it will be critical for our two agencies to work closely together. We look forward to working with you and your staff to ensure continued consistency between the Delta Conservancy's strategic plan and the Delta Plan, and that the two plans are complementary in nature and serve to achieve the coequal goals.

If you have any questions, please contact Cindy Messer at (916) 455-0258 or cmesser@DeltaCouncil.ca.gov.

Sincerely,



P. Joseph Grindstaff
Executive Officer

Attachment

The following are detailed comments regarding areas in the Delta Conservancy's draft strategic plan that are consistent with the final staff draft Delta Plan.

Ecosystem Restoration Approach and Actions

- We appreciated the approach to ecosystem restoration (Goal 3, page 40) the Delta Conservancy will utilize. This approach includes incorporating landscape level elements in project design, creating connectivity between restoration sites, addressing multiple stressors and threats and the importance of flow in restoration. This is consistent with the approach the Council is taking and describes in the "Protect, Enhance and Restore the Delta Ecosystem" chapter in the staff draft Delta Plan. A coordinated effort between the Delta Conservancy, other restoration agencies and the Delta Stewardship Council would further enhance these efforts and increase likelihood of success for restoration projects.
- A working group of restoration agencies and nonprofits such as the proposed Delta Restoration Network is a good concept in which the Delta Conservancy as a primary State agency for ecosystem restoration in the Delta (Public Resources Code 32322(a)), should play an important role. This group should include representatives from the Department of Fish and Game, Department of Water Resources, Bay-Delta Conservation Plan implementers and the Delta Stewardship Council, as well as other restoration organizations. This working group could be a subcommittee of the Delta Plan's Interagency Implementation Committee, could function as an extension of the San Francisco Bay Joint Venture, or might build off other collaborative efforts in the region. As described in the Delta Conservancy's draft strategic plan, this group can help to ensure effective and ongoing coordination and communication between agencies, minimize duplication of effort, and provide an opportunity to share resources and information.
- Development of a "habitat credit program" as described in the draft strategic plan (Strategy 3.1.6, page 42) could boost ecosystem restoration efforts. The draft Delta Plan recommends that Delta Conservancy investigate habitat credit agreements to provide credit for: (1) acquisition for future restoration; (2) preservation, management, and enhancement of existing habitat; (3) restoration of habitat; and (4) monitoring and evaluation of habitat restoration projects.
- We appreciate the commitment to use adaptive management in restoration projects (Strategy 3.2.7, page 43). As you know, the Delta Plan requires it for water supply reliability and ecosystem restoration projects (Water Resources Code 85308(f) and 85052). The Council is committed to this approach and encourages you to promote the adaptive management process outlined in the staff draft Delta Plan. Delta Science Program staff will work with restoration agencies to develop and implement their adaptive management plans.

Preserving Agricultural, Cultural, Historical and Natural Resources in the Delta

- Throughout the draft strategic plan, the Delta Conservancy's commitment to protecting and preserving the Delta's unique qualities, its economy based on agriculture, its Legacy Communities and its history is evident. These objectives and strategies are consistent with policies and recommendations included in the final staff Draft Delta.
- The Delta Conservancy's commitment to targeting public lands or those available for acquisition by willing sellers for ecosystem restoration and increased recreation opportunities. The draft Delta Plan recommends a similar approach when those sites are suitable for projects' purposes and available at fair prices. The draft strategic plan contains goals and objectives for enhancing wildlife friendly farming practices that are consistent with the draft Delta Plan.
- The final staff draft Delta Plan recommends local governments, in cooperation with the Delta Protection Commission and Delta Conservancy, prepare plans for each Legacy Community that emphasize its distinctive character, encourage historic preservation, identify opportunities to encourage tourism, serve surrounding lands, or develop other appropriate uses, and reduce flood risks, as recommended in Chapter 10 of DPC's ESP. This will be a valuable exercise that is consistent with the mission, goals and objectives of the Delta Conservancy.

Enhancing Recreation Opportunities in the Delta

- Under statute, the Delta Conservancy is required to "increase opportunities for recreation and tourism in the Delta" (Public Resources Code 32322 (b)(3)). The draft strategic plan provides solid objectives and strategies for achieving this. This is consistent with several of the recommendations in the "Delta As Evolving Place" chapter in the draft Delta Plan.

Designation of the Delta as a National Heritage Area

- The draft strategic plan describes a collaborative effort with the Delta Protection Commission (DPC) to help achieve a National Heritage Area designation for the Delta. The Council supports this designation and recommends it in the final staff draft Delta Plan.

Water Quality Protection

- Protecting water quality in the Delta for beneficial uses is clearly stated as an objective for projects undertaken by the Delta Conservancy. This is consistent with recommendations in the final staff draft Delta Plan.

The following are recommended actions for further achieving the coequal goals.

Delta Conservancy's Role

- In these times of tight budgets and workloads that overstretch agencies' staffs, the Delta Conservancy should avoid duplicating other agency's efforts related to ecosystem restoration, economic development and finance planning. Rather, the Delta Conservancy should identify existing programs of other agencies on which it can build, partnering with others as it develops the Delta Conservancy's capacity and expertise over time.

In the draft strategic plan, examples of efforts that may be duplicative or premature include:

- a. Development of the Delta Restoration Network, its role in developing landscape-level conceptual models and planning for landscape-level determination of restoration opportunities. These are efforts that are currently addressed by the draft Delta Plan, Delta Science Program, will be addressed in the Delta Science Plan, are included in the BDCP, or working groups within other restoration agencies.
 - b. The role of an Independent Technical Advisory Board responsible for gathering and communicating scientific information should be evaluated against existing programs such as the Delta Science Program, Interagency Ecological Program and others to determine whether there are gaps that the Delta Conservancy needs to fill.
 - c. Development of an Economic Enhancement Task Force. This effort should be coordinated with DPC efforts.
 - d. Development of a Delta Regional Finance Plan may likely duplicate the Council's development of a Finance Plan to implement the Delta Plan and plans to finance individual Delta restoration, flood management, or ecosystem restoration projects.
- While the draft strategic plan does an excellent job of describing close, collaborative working relationships with local government and local entities, it should also highlight key opportunities to work with other state agencies especially as it pertains to ecosystem restoration efforts, recreation and tourism, and economic development. This would bring a sense of balance regarding the Delta Conservancy's role in the Delta.

Ecosystem Restoration Approach and Actions

- Providing a clearinghouse for environmental restoration information could be a key function of the Delta Restoration Network. The Delta Conservancy could serve as a

coordinating entity for restoration information storage, exchange, and reporting that measures the performance of restoration efforts.

- The Delta Conservancy's commitment to fully mitigating all impacts associated with its programs and activities, as well as not undertaking projects from other planning efforts such as the BDCP that may not fully mitigate for impacts (page 30 and described in Goal 5, pages 49-51) may limit the Delta Conservancy's role in some essential Delta activities. An approach that requires consistency with local agricultural ordinances goes beyond the requirements of State law and may substantially increase project costs, making the Delta Conservancy a high cost provider of restoration activities. These provisions will limit the Delta Conservancy's role in the Delta.
- The Delta Conservancy should stay current on the development of the Delta Science Plan (described in the final staff draft Delta Plan) over the next few years as it will likely address activities under the Delta Conservancy's jurisdiction.
- Goal 4 (pages 46-48) proposes to "establish the Delta Conservancy as a leader in gathering and communicating scientific and practical information about the Delta ecosystem and economy". The Delta Conservancy should avoid duplicating efforts of the Delta Science Program. We recommend the Delta Conservancy consult with the Delta Science Program so that its Independent Technical Advisory Board (ITAB) as identified in Strategy 4.1.2, does not duplicate or conflict with the Delta Independent Science Board's duties, which are specified in Water Code Sec 85280, and to identify candidates with the scientific expertise the Delta Conservancy seeks.
- Revise the wording in Strategy 4.1.4 (page 47) to state "Establish and maintain an effective working relationship with the Delta Science Program as an authoritative source for Delta science and encourage their focus on identification of relevant local knowledge and opportunities for its integration into decision making along with more traditional expertise."
- As recommended in the final staff draft Delta Plan, the Delta Conservancy as part of its strategic plan and in subsequent implementation plans should:
 - a) Develop and adopt processes for ownership and long-term operations and management of land in the Delta and Suisun Marsh acquired for conservation or restoration.
 - b) Develop and adopt a formal mutual agreement with the Department of Water Resources, Department of Fish Game, federal interests, and other State and local agencies on implementation of ecosystem restoration in the Delta and Suisun Marsh.

- c) Develop a strategy to partner with the Department of Fish and Game and the Fish and Wildlife Service to develop rules for voluntary Safe Harbor agreements with property owners in the Delta whose actions contribute to the recovery of listed threatened or endangered species.
- In addition to investigating opportunities for restoration, public access, increased recreation and tourism, and education and interpretation activities on agricultural lands, the Delta Conservancy should also look at urban sites (i.e. Stockton) and suburban Delta shoreline areas (i.e. Contra Costa county shoreline) for implementing these types of activities. Improving recreation and access in these areas is recommended by both the DPC's *Economic Sustainability Plan* and State Parks' *Delta Recreation Proposal*. Shoreline access in these areas is often lacking, preventing local residents from enjoying or learning about the Delta's natural and recreational assets.
- The scope of potential partners for Strategy 6.3.4 (page 54) should be increased to include farmers who are tenants as well as those who own land.
- Clarification is needed for Strategy 3.2.4 "Optimize the value of flooded deep island for aquatic species, as well as for recreation, tourism and water quality". Which islands are included in this? How will owners of flooded islands, including State Parks, the Department of Water resources, or Department of Fish and Game, be involved in these efforts?

Economic Development Actions for the Delta

- We appreciate the extent to which the Delta Conservancy has acknowledged the need for coordination of economic activities for the Delta using the DPC's *Economic Sustainability Plan* as the guide for these activities, as provided in Public Resources Code 32360(b)(3). We look forward to a better understanding of what is needed, of what the DPC is doing, plans to do and which activities they are interested in partnering with the Delta Conservancy on.
- Strategy 2.3.2 (page 37) should be revised to emphasize streamlining and understanding existing regulatory requirements, rather than "reducing" them. Possible revised text could state "Assist in addressing streamlining and understanding existing regulatory requirements that often serve as barriers to siting of agricultural processing facilities for low-impact recreational facilities within Delta floodplains."
- The final staff draft Delta Plan recommends that the Delta Conservancy, in conjunction with the California Air Resources Board (CARB) and the Delta Council, should investigate the opportunity for the development of a carbon market whereby Delta farmers could receive credit for carbon sequestration by reducing subsidence and growing native marsh and wetland plants. This investigation should include the potential

for developing offset protocols applicable to these types of plants for subsequent adoption by the CARB.

Funding Strategies

- The Delta Conservancy's draft strategic plan describes development of a near term "Delta Regional Finance Plan" to include near term actions and priority projects for the Delta and potential funding sources that could be available to fund such projects. As you know, the Council will be developing a Finance Plan for implementation of the Delta Plan. The Delta Conservancy's effort should be coordinated with the Council to discuss the scope and ultimate purpose of the Delta Conservancy's finance plan and to avoid duplication of effort.
- Under both "low funding" scenarios (Stage 1, scenarios A and B, page 65-66), the Delta Conservancy should develop a strategy investigating its potential role in projects that implement the Biological Opinions' requirements for restoring 8,000 acres in the Delta and Suisun Marsh, as well as flood management projects already planned for and likely to move with existing fund sources regardless of the status or outcome of the BDCP, Water Bond, or other planning or finding efforts. The Delta Conservancy should play a role in helping to ensure that limited funding is spent wisely and effectively on required restoration projects.



SACRAMENTO - SAN JOAQUIN

DELTA CONSERVANCY

CONSERVANCY BOARD

Mary Nejedly Piepho, Chair
Contra Costa County

Ken Vogel, Vice-Chair
San Joaquin County

Mike Eaton
Appointed Public Member

Daria L. Guenzler, PhD
Appointed Public Member

John Laird, Secretary
California Natural Resources
Agency

Ana Matosantos
California Department of
Finance

Jim Provenza
Yolo County

Dan Taylor
Appointed Public Member

Senator Lois Wolk
Ex-Officio Member

Eddie Woodruff
Solano County

Jimmie Yee
Sacramento County

LIAISON ADVISORS

Steve Chappell
Suisun Resource
Conservation District

Joe LaClair
San Francisco Bay
Conservation and
Development Commission

Don Glaser
U.S. Bureau of Reclamation

Amy Hutzell
California Coastal
Conservancy

Robin Kulakow
Yolo Basin Foundation

Ren Lohefener
U.S. Fish and Wildlife
Service

Maria Rea
National Marine
Fisheries Service

Paul Robershotte
U.S. Army Corps of
Engineers

Michael Villines
Central Valley Flood
Protection Board

Mark Wilson
Delta Protection Commission

May 21, 2012

Michael Machado
Executive Director
2101 Stone Blvd., Suite 210
West Sacramento, CA 95691

Dear Mr. Machado:

I am writing in response to your letter dated May 15, 2012 (attached). The Sacramento-San Joaquin Delta Conservancy (Conservancy) is happy to provide this letter of support and would be pleased to partner with the Delta Protection Commission (Commission) in its efforts to meet Goal 1, as stated in your letter:

"Brand the Delta as a region of national significance to educate the public about 'Delta as a place', and build more support for preserving, protecting, and enhancing the Delta."

As we discussed in our meeting on May 9, 2012, the Conservancy is moving forward with a near-term effort to work collaboratively with the Delta community to identify opportunities to enhance economic activity and develop a branding and marketing strategy. Based on feedback received during the development of our Strategic Plan and in discussion with our Board members, we sense an urgent need to begin this effort. It is our expectation that the process we are initiating is complementary to the Natural Heritage Area (NHA) process and we commit to close coordination with the Commission and the NHA effort. Further we would welcome Commission partnership and believe that by combining our resources we can ensure much needed near-term strategies that are compatible with the NHA process, and that can facilitate development the NHA Management Plan when Congress acts to designate the Delta as an NHA.

Please feel free to contact me if you would like to discuss this further.

Regards,

Campbell Ingram,
Executive Officer

DELTA PROTECTION COMMISSION

2101 Stone Blvd., Suite 210
West Sacramento, CA 95691
Phone (916) 375-4800 / FAX (916) 376-3962
Home Page: www.delta.ca.gov



Contra Costa County Board of
Supervisors

Sacramento County Board of
Supervisors

San Joaquin County Board of
Supervisors

Solano County Board of
Supervisors

Yolo County Board of
Supervisors

Cities of San Joaquin County

Cities of Contra Costa and
Solano Counties

Cities of Sacramento and
Yolo Counties

Central Delta Reclamation Districts

North Delta Reclamation Districts

South Delta Reclamation Districts

Business, Transportation and
Housing

Department of Food and
Agriculture

Natural Resources Agency

State Lands Commission

May 15, 2012

Mr. Campbell Ingram, Executive Officer
Sacramento-San Joaquin Delta Conservancy
3500 Industrial Boulevard, Second Floor
West Sacramento, California 95691

Dear Mr. Ingram:

In follow up from our May 9, 2012 meeting, I am writing to request a letter of support/partnership commitment from the Delta Conservancy (Conservancy) for a Sacramento-San Joaquin Delta National Heritage Area (Delta NHA) for which the Delta Protection Commission (Commission) is finalizing a feasibility study. I appreciate the letter of support in concept which you provided in 2011, but as partnerships are a key component of NHA planning and management, a commitment letter which identifies a specific collaborative effort between the Conservancy and the Commission would be a valuable component of the feasibility study. Such coordinated activities between two Delta focused agencies would help ensure granting of the NHA designation.

Specifically, the Conservancy would be of great value in helping to meet Goal #1 of the proposed Delta NHA which has been developed through the public process:

Brand the Delta as a region of national significance to educate the public about 'Delta as a place', and build more support for preserving, protecting and enhancing the Delta.

The Conservancy could be a valuable partner in helping to identify 'Delta as a place', including marketing, promotion, and educational activities; incorporating public participation and input from the technical and stakeholder advisory committees.

In order to include a letter in the final feasibility study, we need to receive it no later than Tuesday May 29, 2012. If the Conservancy is able to provide such a letter, but not until after that date, the letter would still be posted to our website, along with the other commitment letters, and kept on file for reference at the appropriate time. Commission staff are happy to provide a template for such a letter at your request.

Thank you for your time and consideration. Please contact the Commission office at (916) 375-4800 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Machado'.

Michael Machado
Executive Director



State of California - Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Ecosystem Conservation Division
Water Branch
830 S Street
Sacramento, CA 95811
<http://www.dfg.ca.gov>

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



June 7, 2012

Mr. Campbell Ingram
Executive Officer
Delta Conservancy
3500 Industrial Blvd.
West Sacramento, California 95691

SUBJECT: Comments on May 8, 2012 Draft of Delta Conservancy Strategic Plan

Dear Mr. Ingram:

Let me begin by offering congratulations to you and your staff on the latest draft of the Strategic Plan. It is clear much thought and time has gone into its preparation.

As indicated in my April 18, 2012 letter, the Department of Fish and Game (Department) has great interest in the Delta Conservancy's Strategic Plan and our coordination will be an important step in achieving many of our shared goals and visions for regional ecosystem protection, enhancement, and restoration, as well as associated water supply management. As State implementing agency for the Ecosystem Restoration Program (ERP), once a part of the CALFED Bay-Delta Program, the Department is actively involved in many of the activities you have identified in the Strategic Plan. To call out a few of these as examples:

- 1) On Page 7 the Strategic Plan introduces prioritization of projects. I would like to suggest that you consider the ERP Conservation Strategy as well as other documents in this process.
- 2) On Page 8 the Strategic Plan introduces the use of Ecosystem Restoration Models to inform funding decisions. ERP has been involved with the development of ecosystem conceptual models since 2004. Many of the models have undergone technical peer review and are posted on our website (http://www.dfg.ca.gov/ERP/conceptual_models.asp/). Several of the models are slated for publication in an upcoming San Francisco Estuary and Watershed Science – an open access, peer-reviewed electronic journal.

- 3) Throughout the document Ecosystem Restoration is discussed. The ERP is at the forefront of restoration efforts in the Delta, awarding over \$750 million in more than 600 grants since its inception in 1995. The ERP has acquired or restored over 82,000 acres program wide and currently, the DFG ERP staff is managing over 70 projects including the Battle Creek Salmon and Steelhead Restoration Project and the Clear Creek Restoration Program.
- 4) On Page 8, Goal 3 “Lead efforts in protecting, enhancing, and restoring the Delta ecosystem ...” is presented. Coordination with and taking advantage of existing efforts and programs will be key.
- 5) On Page 8, Goal 4 “Establish the Conservancy as a leader in gathering and communicating scientific and practical information about the Delta ecosystem and economy” is presented. Collaboration with established activities including work done by the Department and ERP will greatly enhance all of our communication efforts.

Finally, I would like to recognize the work that the DFG Performance Measures Unit is leading on adaptive management and performance measures development. They have been working in close contact with the Delta Science Program staff as well as Bay-Delta Conservation Plan staff to ensure consistency between approaches.

In closing and to further facilitate communication between our agencies, I would like to suggest that the Department’s Water Branch staff brief the Delta Conservancy Board on our many activities. Dave Zezulak, the ERP Program Manager, is the Water Branch staff that would make the presentation and can follow up with scheduling this with you and your staff.

Additionally, I would like to invite you or your delegated staff to participate in the monthly Ecosystem Restoration Program Implementing Agency Managers meetings. The meetings are scheduled for the fourth Tuesday of the month. Our next meeting is on June 26 at 2:30 PM in the conference room located at 1812 9th Street. ERP staff is available to meet with Conservancy staff on an ongoing basis as well to further coordinate our activities.

If you have questions regarding this, please contact Dr. David S. Zezulak at either dzezulak@dfg.ca.gov or 916-445-3960.

Sincerely,



Scott Cantrell
Chief, Water Branch

cc: Mike Eaton, Sacramento-San Joaquin Delta Conservancy Board member
Robin Kulakow, Liaison Advisor, Yolo Basin Foundation
Michael Hoover, US Fish and Wildlife Service
Howard Brown, National Oceanic and Atmospheric Administration
David S. Zezulak, PhD, DFG
Carol Atkins, DFG

Subject:

FW: Re: Review of the Draft Delta Conservancy Strategic Plan

From: Jennifer_Norris@fws.gov [mailto:Jennifer_Norris@fws.gov]
Sent: Friday, June 08, 2012 10:54 AM
To: Ingram, Campbell
Cc: michael_chotkowski (Contact); michael_hoover (Contact)
Subject: Fw: Re: Review of the Draft Delta Conservancy Strategic Plan

Dear Campbell,

The Bay Delta Fish and Wildlife Office appreciates the opportunity to provide comment on the Draft May 8, 2012 Delta Conservancy Strategic Plan and apologizes for this late submittal. We hope our comments, and that of other federal and state fish and wildlife agencies, will be helpful in strengthening the important work of the Delta Conservancy.

Take and Safe Harbor

The Strategy includes reference to the concepts of "take", "safe harbor" and "good neighbor." The Service recognizes the Sacramento-San Joaquin Delta Conservancy Act (Delta Conservancy Act) [chapter 3, §32322 (b) (11)] provides legislative authority for the Conservancy to "*facilitate take protection and safe harbor agreements for adjacent landowners and local public agencies*" (Strategy pages 5, 18, 75 and 77). We believe additional clarity should be provided in the Strategy to better identify the roles of agencies associated with provision of incidental take and safe harbor agreements.

On page 51, Strategy 3.6.2 states the following, "*[P]rovide for mitigation for adjacent landowners by working with regulatory agencies to develop agreements or new mechanisms designed to ensure private landowners adjacent to lands that contribute to habitat restoration goals are not adversely affected by incidental occurrences of protected species, such as providing take authority or finding funding to install fish screens.*" In this instance it's not clear if and how the Conservancy would provide take authority, as identified. Please provide clarity in the Strategy regarding the Conservancy's ability to provide incidental take authority. We recommend review of the following websites and materials to assist the Conservancy with preparation of its Strategy so that it may align with existing Service policies and authorities related to incidental take, safe harbor and good neighbor concepts.

HCP and Incidental Take Permits

http://www.fws.gov/southwest/es/austintexas/ESA_HCP_FAQs.html

Habitat Conservation Plan Assurances (No Surprise) Rule (63 FR 8859, February 23, 1998)

<http://www.fws.gov/endangered/what-we-do/rules-and-regulations.html>

Notice of Availability: Final Handbook for Habitat Conservation Planning and Incidental Take Permitting Processes (61 FR 63854, December 2, 1996)

<http://www.fws.gov/endangered/laws-policies/policy-final-hcp-handbook.html>

USFWS: Safe Harbor Agreements - U.S. Fish and Wildlife Service Home

<http://www.fws.gov/midwest/endangered/permits/enhancement/sha/index.html>

Final Safe Harbor Policy (64 FR 32717, June 17, 1999)

<http://www.fws.gov/policy/library/1999/99fr52676.html>

Safe Harbors and Candidate Conservation Agreements with Assurances - Regulations (64 FR 32705, June 17, 1999)

Restoration Responsibilities

The Fish and Wildlife Service (Service) has participated in Bay-Delta habitat restoration and research with other federal and state partner agencies for decades. Those effective relationships have resulted in numerous successful planning, research and restoration projects. While we understand the new role of the Conservancy, it is still not clear how existing roles of such agencies as the California Department of Fish and Game, State and Regional Water Boards, Natural Resources Conservation Service, Fish and Wildlife Service, NOAA's National Marine Fisheries Service, the U.S. Army Corps of Engineers and the Environmental Protection Agency may have been altered in the Bay-Delta with passage of the Delta Conservancy Act. We look forward to participating in efforts to better identify how federal and state agencies will work together in the future.

Mitigation Responsibilities

The Strategy discusses mitigation in numerous locations and appreciate the need to clearly address this concept. The Service is significantly involved in mitigation nationwide and looks forward to discussing ways to appropriately implement it in the Delta in the future. The following web pages provide our policy on mitigation as well as the U.S. Army Corps of Engineers/Environmental Protection Agency Final Rule for *Compensatory Mitigation for Losses of Aquatic Resources* (EPA-40 CFR Part 230; COE-33CFR Parts 325 and 332):

<http://www.fws.gov/policy/501fw2.html>

http://www.epa.gov/owow/wetlands/pdf/wetlands_mitigation_final_rule_4_10_08.pdf

While the Strategy's section on "*Mitigation of Impacts*" does state that the Conservancy will be "*sensitive to impacts of its programs*" (pages 8 and 36), it does not go further to commit to mitigate for its impacts. If program actions result in adverse impacts that aren't mitigated this could be of concern to resource agencies working to insure ecosystem stability and conservation in the Delta.

The Strategy identifies that the Conservancy plans to develop its own policies related to mitigation in the Delta. Page 36, states, "*[T]he Conservancy intends to develop its own mitigation policies in consultation with a range of stakeholders, including state and local agencies, other conservancies, not-for-profit organizations, and individual landowners. The process will be open and transparent and will incorporate local perspectives.*"

We look forward to participating with the Conservancy as it develops those mitigation policies. Since the Service already has numerous policies and authorizations on mitigation, we look forward to working with the Conservancy to insure consistency.

The Strategy identifies that the Conservancy has its own mission, goals, objectives, and strategies, and will develop criteria for participating in Delta restoration. As such, and because the Conservancy is identified as the "lead" for Delta restoration activities (page 6, lines 6-9), existing concepts of Delta restoration and mitigation may change in the future. We look forward to participating with the Conservancy in future discussions related to Delta mitigation guidance.

The Strategy identifies that it will seek mechanisms to provide "credit" to landowners that provide added habitat value to the Delta. The concept of crediting landowners for their efforts to add habitat to an ecosystem has been in existence for many years. Guidance from the Service in 1983 supported the establishment of the first mitigation banks. We support the concept of providing appropriate "credit" for landowner actions to support habitat for fish and wildlife species and look forward to participating with the Conservancy in this effort. We provide the following guidance from the Service's and EPA's web-sites on

mitigation banking. We also remind the Conservancy that, depending on their purpose(s), generally mitigation banks will require permitting from state and federal agencies.

EPA's Mitigation Banking Web-site

<http://www.epa.gov/owow/keep/wetlands/wetlandsmitigation/index.html>

EPAs Mitigation Banking Factsheet

<http://www.epa.gov/owow/wetlands/facts/fact16.html>

USFWS Web-site Location for Federal Guidance for the Establishment, Use and Operation of Mitigation Banks

<http://www.fws.gov/habitatconservation/Corps%20banking%20guide.pdf>

Delta Science Support

The Service has and will continue to support development and use of the best available science in the Delta. Strong science is essential for the ecosystem of the Bay-Delta where science-related questions are always very complicated, significant and political. We support the Conservancy's efforts to help develop and improve Delta science in the future.

It's not clear how the Conservancy will integrate with or lead existing efforts to gather and communicate scientific and practical information. As an example, the Interagency Ecological Program (IEP) and Delta Science Program are currently gathering and communicating this type of information to help increase the overall scientific knowledge base of agencies and stakeholders in the Delta. We recommend the Conservancy leverage existing Delta scientific institutions like the IEP, the Delta Science Program, academia, and federal and state agencies to assist with this effort in the future .

As you are aware, there are already many agencies and stakeholders developing analytical tools (e.g., models) in the Delta. We recommend the Conservancy utilize these efforts either directly or to inform its own similar efforts. Associated with use of existing planning tools and models, we remind the Conservancy of the existence of Delta Regional Ecosystem Restoration Implementation Plan (DRERIP) Conceptual Models. These DRERIP planning tools were developed by a multi-disciplinary team of experts guided by the CALFED Adaptive Management Planning Team over the last 10 years and use diagrams, narratives and/or tables to represent a set of causal relationships of species and environmental parameters in the Delta. They currently reside on the DFG website at the following web-link.

<http://www.dfg.ca.gov/erp/drerip.asp>

We recommend the Conservancy establish a rigorous scientific peer review process for its Delta-related analytical and planning efforts. Adequate scientific peer review of studies, research, papers, and processes is essential for Delta planning. We note the Strategy identifies the Independent Technical Advisory Board (ITAB) (bullets 3 and 7 above) as a board that will provide "expertise in applied fields" in the Delta. It's not clear if the ITAB will be created to address a specific action, study or research effort, or if it will be established to provide input on multiple actions over longer periods (e.g., months or years). As before, we recommend establishing a team of specific science experts to address singular actions through the Delta Science Program. We have experience with this type of evaluation and find it very valuable. A long standing team may find it difficult to provide expertise in the many areas of science in the Delta. Use of a more focused, action-specific scientific team should also reduce prevalence of opinion that a longer-standing body might be prejudicial.

Specific Comments:

Cmnt #	Page #	Line #	Comment
1	5	1-3	Page 5, lines 10-3 and page 14, lines 27-28 should be modified to include the fact that flow is a constituent of habitat for many aquatic species in the Delta. The lines should be modified to state, "[R]estoration of this ecosystem will require implementation of numerous many ecosystem actions parameters to reconstruct physical habitat reconstruction across the several habitat types mentioned above but also, including the provision of active and sophisticated management of water flows and other ecosystem processes.
2	5	3-4	On page 5 after the existing line 3 and/or page 14 after lines 27-28, we recommend including all or portions of the following: "The National Research Council's report on Sustainable Water and Environmental Management in the California Bay-Delta included the following in its discussions about management of California water, 'Strategies to deal with the expected and unprecedented changes will need to consider many factors, including targeted demand management, increased surface and groundwater storage consistent with minimizing environmental impacts, enhanced flexibility in the water management system through operational optimization and maximum flexibility for moving water, and developing an understanding of and establishing environmental flows for the ecosystem .'"
3	6	24-25	The Conservancy's Strategy identifies that it includes three parts on page 6, lines 24-25 as follows: <ul style="list-style-type: none"> - Priorities and Criteria; - Goals, Objectives and Strategies; and - Implementation Scenarios Explanations of these concepts are provided in the document except for "strategies", in bullet number 2. The location that probably should have provided this explanation in the document (between line 12 and 13 on page 9) does not. It goes straight to "Implementation Scenarios". If a section explaining "Strategies" were to be added, it makes sense to include Priorities and Criteria in that section. We believe they are more near-term strategies for implementing the Conservancy's responsibilities given current funding and infrastructure.
4	7 34	10-11 14-16	Does bullet number 2 mean the Conservancy has a priority to maintain, strengthen or just review relationships with other agencies, etc.? Maybe it could add active verbs and both maintain and strengthen the "relationships..."
5	9	16	This line states that the Conservancy must develop and implement its programs consistently with five other plans and laws. Then it doesn't go on to explain what they are. They are identified on page 25. For the reader you should modify the text as follows, "...restoration and economic well being within a complex context that requires "consistency" with five other plans and laws (identified on page 25) , including the Delta Plan...". Or just remove the word "five". Identifying a number implies a list will be provided.
6	27	6-10	"...evaluation of a new Lower San Joaquin River Bypass along Paradise Cut in the south Delta..." is mentioned on page 27, lines 6-10. We recommend incorporation of information from the BDCP Effects Analysis and the BDCP South Delta Habitat Workgroup that found issues with restoration of tidal habitat in this area. Efforts should focus on channel and floodplain restoration, allowing for draining of the Paradise Cut area so-as-to align with a lowering of flows in the San Joaquin River.
7	59	10-12	Line 10-12 on page 59 identifies the establishment of an Ecosystem restoration program within the Conservancy, " <i>Strategy 5.5.1: Establish an Ecosystem Restoration Program and an Economic Enhancement Program within the Conservancy to organize outreach activities.</i> " We recommend a different name as there already is and ERP in the DFG working in the Delta, unless this is the same group.
8	70	15-21	We recommend the following corrections to the definition of Habitat Conservation Plans on page 70, line 15-21. " Habitat Conservation Plans (HCPs): Planning documents required by the U.S. Fish and Wildlife Service for an incidental take permit under the federal Endangered Species Act. Incidental take permits are required if a proposed activity would result in the death of or injury (incidental take of to a listed wildlife species in an otherwise lawful activity . HCPs describe the anticipated effects of the proposed taking, how those impacts will be minimized or mitigated, and how the HCP is to be funded."

Please feel free to contact me or Michael Hoover of our office (930-5633) if you have any questions or need any additional information.

Thank you again for this opportunity to review the Draft Delta Conservancy Strategic Plan.

Best regards,

Jen

////////////////////////////////////
Jennifer M. Norris, Ph.D.
Deputy Field Supervisor
Bay-Delta Fish and Wildlife Office
650 Capitol Mall
Sacramento, CA 95814
916-930-5633
916-943-5089 (cell)